

# EXHIBIT C

SUPERIOR COURT BERGEN COUNTY  
FILED

JUL 08 2008

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP

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Newark, New Jersey 07102-5003

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Attorneys for Defendants Wayne VF, LLC and Vornado Realty Trust, improperly pleaded  
as Vornado Trust

DEPUTY CLERK

JAMES FOUSKEY,

Plaintiffs,

v.

CIRCUIT CITY STORES INC., WAYNE VF,  
LLC, VORNADO TRUST, STAR UNIVERSAL  
LLC, JOHN DOES 1-20 AND ABC CORPS. 1-20  
(fictitious names),

Defendants.

: SUPERIOR COURT OF NEW JERSEY  
: LAW DIVISION: BERGEN COUNTY  
: DOCKET NO.: L-3271-08

Civil Action

ANSWER TO AMENDED  
COMPLAINT, CROSSCLAIMS,  
DEMAND FOR DISCOVERY,  
DESIGNATION OF TRIAL  
COUNSEL, JURY DEMAND

Defendants Wayne VF, LLC and Vornado Realty Trust, improperly pleaded as Vornado Trust,  
(hereinafter "defendants"), by way of Answer to the Complaint, alleges and say:

**FIRST COUNT**

1. These defendants are without knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph 1.
2. These defendants provide no answer to the allegations contained in paragraph 2 as the allegations contained therein call for a legal conclusion.
3. These defendants deny the allegations contained in paragraph 3.
4. These defendants deny the allegations contained in paragraph 4.

**FIRST SEPARATE DEFENSE**

Plaintiff fails to state a claim upon which relief can be granted.

**SECOND SEPARATE DEFENSE**

Plaintiff's Complaint is barred by the Statute of Limitations.

**THIRD SEPARATE DEFENSE**

The complained of occurrence was caused by third parties over whom this defendant had no control.

**FOURTH SEPARATE DEFENSE**

The damages alleged were the result of unforeseeable, intervening or superseding acts of others independent of these defendants which bars plaintiff's cause of action.

**FIFTH SEPARATE DEFENSE**

If these defendants are found by the trier of fact to be negligent or at fault for the acts alleged in the Complaint and such liability is less than 60% against these defendants, these defendants are responsible for the percentage of the award directly attributable to their negligence or fault. N.J.S.A. 2A:15-5.3.

**SIXTH SEPARATE DEFENSE**

Plaintiff's claims are barred or in the alternative the damages to which plaintiff are entitled must be reduced by the doctrine of comparative negligence. N.J.S.A. 2A:15-5.1 et seq.

**SEVENTH SEPARATE DEFENSE**

Plaintiff's claims are limited by the doctrine of avoidable consequences.

**EIGHTH SEPARATE DEFENSE**

The injuries alleged by the plaintiff were caused by pre-existing conditions over which these defendants had no control.

**NINTH SEPARATE DEFENSE**

Defendants hereby reserve the right to move for dismissal of the within action for failure to join indispensable parties.

**TENTH SEPARATE DEFENSE**

The claim asserted is one for personal injury and these parties are therefore entitled to the benefit of collateral source payments received by the plaintiff pursuant to N.J.S.A. 2A:15-97.

**WHEREFORE**, Defendants Wayne VF, LLC and Vornado Realty Trust demands judgment, dismissing the Complaint in its entirety, with prejudice, together with costs and attorneys' fees.

**CROSSCLAIM FOR CONTRIBUTION**

Defendants Wayne VF, LLC and Vornado Realty Trust, by way of Crossclaim against co-defendant, Circuit City Stores Inc say:

1. Defendants Wayne VF, LLC and Vornado Realty Trust deny any and all legal liability and responsibility for the acts of the co-defendant Circuit City Stores Inc.
2. If defendants Wayne VF, LLC and Vornado Realty Trust should be found liable to the plaintiff, which liability is denied, these defendants assert that co-defendant Circuit City Stores Inc., is a joint tortfeasors and are jointly liable with respect to any loss, liability or expense on account of plaintiff.

**WHEREFORE**, Defendants Wayne VF, LLC and Vornado Realty Trust, demand judgment for contribution against Circuit City Stores Inc., herein, in accordance with the provisions of the New Jersey Tortfeasors Contribution Law, N.J.S.A. 2A:53A-1 et seq. and Comparative Negligence Act, N.J.S.A. 2A:15-5.1 et seq.

**CROSSCLAIM FOR INDEMNIFICATION**

Defendants Wayne VF, LLC and Vornado Realty Trust, by way of Crossclaim for Indemnification against co-defendant Circuit City Stores Inc., allege and say:

1. Defendants Wayne VF, LLC and Vornado Realty Trust deny any and all legal liability and responsibility for the acts alleged in the Complaint.

2. If defendants Wayne VF, LLC and Vornado Realty Trust should be found liable to plaintiff, which liability is denied, said liability will only be secondary, passive, technical, vicarious, or imputed and the liability of co-defendant Circuit City Stores Inc., herein is primary, active and direct.

WHEREFORE, defendants Wayne VF, LLC and Vornado Realty Trust demand judgment against co-defendant Circuit City Stores Inc., herein for indemnification in full with respect to any damages which may be recovered against defendants Wayne VF, LLC and Vornado Realty Trust, by the plaintiff.

**CROSSCLAIM FOR CONTRACTUAL INDEMNIFICATION**

Defendants Wayne VF, LLC and Vornado Realty Trust, by way of Crossclaim for Contractual Indemnification against co-defendant Circuit City Stores Inc., allege and say:

1. Defendants Wayne VF, LLC and Vornado Realty Trust deny any and all legal liability and responsibility for the acts alleged in the Complaint.

2. If defendants Wayne VF, LCC and Vornado Realty Trust should be found liable to the plaintiff, which liability is denied, co-defendant Circuit City Stores Inc., in accordance with the terms and conditions of an agreement between the parties, are obligated to defend and indemnify Wayne VF, LCC and Vornado Realty Trust.

WHEREFORE, Defendants Wayne VF, LLC and Vornado Realty Trust, demands judgment against co-defendant Circuit City Stores Inc., herein for indemnification in full with respect to any damages which may be recovered against Defendants Wayne VF, LLC and Vornado Realty Trust, by the plaintiff, together with all counsel fees.

**NOTICE OF ALLOCATION**

Pursuant to the R. 4:7-5(c) and *Young v. Latta*, 123 N.J. 584 (1991), defendants hereby advise that if any co-defendant settles the within matter with plaintiffs at any time prior to the conclusion of trial, the liability of any settling co-defendant shall remain at issue and defendants shall seek an allocation and/or percentage of negligence by the finder of fact against any such settling co-defendant, and/or a credit in favor of defendant consistent with such allocation.

**ANSWER TO ALL CROSSCLAIMS**

Defendants Wayne VF, LLC and Vornado Realty Trust, by way of Answer to any and all Crossclaims heretofore and hereafter asserted against it, respectfully state that they deny each and every allegation contained in such Crossclaim.

WHEREFORE, defendants Wayne VF, LLC and Vornado Realty Trust, demand judgment dismissing any and all Crossclaims plus counsel fees and costs, either hereto or hereafter asserted against them.

**DEMAND FOR SPECIFICATION OF MONEY DAMAGES**

We hereby demand that you serve upon us within five (5) days from the date of service of this answer upon you a written specification of the amount of money damages claimed pursuant to R. 4:5-2.

**DEMAND FOR ANSWERS TO INTERROGATORIES**

Please take notice that demand is hereby made upon you to answer all questions in Form A Interrogatories in accordance with the Rules of this Court.

**DESIGNATION OF TRIAL COUNSEL**

The undersigned is hereby designated as trial counsel pursuant to R. 4:25-4.

**DEMAND FOR TRIAL BY JURY**

Defendants demand a trial by jury on all issues.

**CERTIFICATION AS TO TIME**

We certify that this pleading was served within the time period allowed under R. 4:6, et. seq.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
Attorney for the Defendants Wayne VF, LLC and Vomado Realty Trust

By: \_\_\_\_\_

William J. Riina

Dated: 7-2-08

**CERTIFICATION OF NO OTHER PENDING ACTION OR ARBITRATION**

Pursuant to R. 4:5-1, I hereby certify that the matter in controversy is not the subject of any other pending or contemplated action or arbitration proceeding. This party is not aware of any other parties who should be joined in this action at this time.

WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP  
Attorney for the Defendants Wayne VF, LLC and Vornado Realty Trust

By: 

William J. Riina

Dated: 

CERTIFICATION OF MAILING

I, Lorraine Langdon, certify as follows:

I am a secretary employed by the firm of Wilson, Elser, Moskowitz, Edelman & Dicker LLP, attorneys for Defendants Wayne VF, LLC and Vornado Realty Trust, in the within matter. I made service of the within Answer To Amended Complaint, on behalf of the herein named Defendant upon:

Alisa Nunno DiChiara, Esq.  
LAW OFFICES OF WILLIAM R. NUNNO  
45 Essex Street  
Hackensack, New Jersey 07601  
Attorney for Plaintiff

by serving a clear copy of the same to him at his office by New Jersey Lawyers Service.

I certify that the original of the within Answer was sent to the Clerk of Bergen County in Hackensack, New Jersey, pursuant to the direct filing system on this same date.

I further certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

  
Lorraine Langdon

Dated: 07/02/08

<b>CIVIL CASE INFORMATION STATEMENT</b> <b>(CIS)</b>		For Use By Clerk's Office Only										
Use for initial Law Division – Civil Part pleadings (not motions) under Rule 4:5-1. <b>Pleading will be rejected for filing, under Rule 1:5-6(c), if information above the black bar is not completed or if attorney's signature is not affixed.</b>		<table border="1" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%;">PAYMENT TYPE: CK</td> <td style="width: 50%;">CG</td> </tr> <tr> <td colspan="2">CKG/CK NO.</td> </tr> <tr> <td colspan="2">AMOUNT:</td> </tr> <tr> <td colspan="2">OVERPAYMENT:</td> </tr> <tr> <td colspan="2">BATCH NUMBER:</td> </tr> </table>	PAYMENT TYPE: CK	CG	CKG/CK NO.		AMOUNT:		OVERPAYMENT:		BATCH NUMBER:	
PAYMENT TYPE: CK	CG											
CKG/CK NO.												
AMOUNT:												
OVERPAYMENT:												
BATCH NUMBER:												
ATTORNEY/PRO SE NAME Daniel Zemsky, Esq.	TELEPHONE NUMBER (973) 624-0800	COUNTY OF VENUE Bergen										
FIRM NAME (if applicable) WILSON, ELSER, MOSKOWITZ, EDELMAN & DICKER LLP	DOCKET NUMBER (When Available) BER-L-3271-08											
OFFICE ADDRESS: 33 Washington Street Newark, New Jersey 07102	DOCUMENT TYPE Answer											
		JURY DEMAND <div style="text-align: right;"><input checked="" type="checkbox"/> YES <input type="checkbox"/> NO</div>										
NAME OF PARTY (e.g. John Doe, Plaintiff) Wayne VF, LLC and Vornado Realty Trust.	CAPTION: James Fouskey v. Circuit City Stores Inc. et al.											
CASE TYPE NUMBER (See reverse side for listing) 605	IS THIS A PROFESSIONAL MALPRACTICE CASE? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO IF YOU HAVE CHECKED "YES" SEE N.J.S.A. 2A:53A-27 AND APPLICABLE CASE LAW REGARDING YOUR OBLIGATION TO FILE AN AFFIDAVIT OF MERIT.											
RELATED CASES PENDING? <div style="text-align: right;"><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</div>	IF YES, LIST DOCKET NUMBERS											
DO YOU ANTICIPATE ADDING ANY PARTIES (arising out of same transaction or occurrence?) <div style="text-align: right;"><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</div>	NAME OF DEFENDANT'S PRIMARY INSURANCE COMPANY, IF KNOWN: <div style="text-align: right;"><input type="checkbox"/> NONE <input checked="" type="checkbox"/> UNKNOWN</div>											
THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE												
CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION												
A. DO PARTIES HAVE A CURRENT, PAST OR RECURRENT RELATIONSHIP? <div style="text-align: right;"><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</div>	IF YES, IS THAT RELATIONSHIP <input type="checkbox"/> EMPLOYER-EMPLOYEE <input type="checkbox"/> FRIEND/NEIGHBOR <input type="checkbox"/> OTHER(explain) _____ <input type="checkbox"/> FAMILIAL <input type="checkbox"/> BUSINESS											
B. DOES THE STATUTE GOVERNING THIS CASE PROVIDE FOR PAYMENT OF FEES BY THE LOSING PARTY? <div style="text-align: right;"><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</div>												
USE THIS SPACE TO ALERT THE COURT TO ANY SPECIAL CASE CHARACTERISTICS THAT MAY WARRANT INDIVIDUAL MANAGEMENT OR ACCELERATED DISPOSITION:												
DO YOU OR YOUR CLIENT NEED ANY DISABILITY ACCOMMODATIONS? <input type="checkbox"/> YES <input checked="" type="checkbox"/> NO												
IF YES, PLEASE IDENTIFY THE REQUESTED ACCOMMODATION _____												
WILL AN INTERPRETER BE NEEDED? <div style="text-align: right;"><input type="checkbox"/> YES <input checked="" type="checkbox"/> NO</div>												
IF YES, FOR WHAT LANGUAGE: _____												
ATTORNEY SIGNATURE 												

**SIDE 2**

**CIVIL CASE INFORMATION STATEMENT  
(CIS)**

Use for initial pleadings (not motions) under Rule 4:5-1

**CASE TYPES** (Choose one and enter number of case type in appropriate space on the reverse side.)

**Track I - 150 days' discovery**

- 151 NAME CHANGE
- 175 FORFEITURE
- 302 TENANCY
- 399 REAL PROPERTY (other than Tenancy, Contract, Condemnation, Complex Commercial or Construction)
- 502 BOOK ACCOUNT
- 505 OTHER INSURANCE CLAIM (INCLUDING DECLARATORY JUDGMENT ACTIONS)
- 506 PIP COVERAGE
- 510 UM or UIM CLAIM
- 511 ACTION ON NEGOTIABLE INSTRUMENT
- 512 LEMON LAW
- 599 CONTRACT/COMMERCIAL TRANSACTION
- 801 SUMMARY ACTION
- 802 OPEN PUBLIC RECORDS ACT (SUMMARY ACTION)

**Track II - 300 days' discovery**

- 305 CONSTRUCTION
- 509 EMPLOYMENT (other than CEPA or LAD)
- 602 ASSAULT AND BATTERY
- 603 AUTO NEGLIGENCE - PERSONAL INJURY
- 605 PERSONAL INJURY
- 610 AUTO NEGLIGENCE - PROPERTY DAMAGE
- 699 TORT - OTHER

**Track III - 450 days' discovery**

- 005 CIVIL RIGHTS
- 301 CONDEMNATION
- 604 MEDICAL MALPRACTICE
- 606 PRODUCT LIABILITY
- 607 PROFESSIONAL MALPRACTICE
- 608 TOXIC TORT
- 609 DEFAMATION
- 616 WHISTLEBLOWER/CONSCIENTIOUS EMPLOYEE PROTECTION ACT (CEPA) CASES
- 617 INVERSE CONDEMNATION
- 618 LAW AGAINST DISCRIMINATION (LAD) CASES

**Track IV - Active Case Management by Individual Judge /450 days' discovery**

- 156 ENVIRONMENTAL/ENVIRONMENTAL COVERAGE LITIGATION
- 303 MT. LAUREL
- 508 COMPLEX COMMERCIAL
- 701 ACTIONS IN LIEU OF PREROGATIVE WRIT

**Mass Tort (Track IV)**

- |  |              |
|--|--------------|
| 240 REDUXPHEN-FEN (formerly "DIET DRUG") | 601 ASBESTOS |
| 248 CIBA GEIGY                           | 619 VIOXX    |
| 264 PPA                                  |              |

999 OTHER (Briefly describe nature of action) \_\_\_\_\_

If you believe this case requires a track other than that provided above, please indicate the reason on Side 1, in the space under "Case Characteristics."

Please check off each applicable category:

☐ Verbal Threshold

☐ Putative Class Action

☐ Title 59